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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
CM05922J

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Application Number	Filed
10/814,315	2004-03-31
First Named Inventor	
Mark A. Boergrer	
Art Unit	**Examiner**
2431	DOAN, Trang T.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☑ attorney or agent of record.
Registration number 39505.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

/Barbara R. Doutre/
Signature

Barbara R. Doutre
Typed or printed name

954-723-6449
Telephone number

April 8, 2009
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLN. NO.:	10/814,315	CONFIRMATION NO.:	5177
APPLICANT:	Mark A. Boerger	TC/ART UNIT:	2431
FILED:	March 31, 2004	EXAMINER:	Trang T. Doan
TITLE:	SYSTEM AND METHOD FOR COMMUNICATING WITH A KEY VARIABLE LOADER (KVL) USING A STANDARD UNIVERSAL ASYNCHRONOUS RECEIVER TRANSMITTER (UART) PERIPHERAL		

REMARKS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAILSTOP: AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is responsive to the Final Office Action mailed January 06, 2009 and Advisory Action mailed March 10, 2009 concerning the above-identified application in furtherance of the Notice of Appeal filed April 8, 2009. Claims 1-13 remain pending in the application, a copy of which can be found in Applicant's amendment filed February 27, 2009.

REMARKS

Rejection of claims 1 - 13 under 35 U.S.C. § 102(b) as being anticipated by PSWN ("Introduction to Encryption Key Management for Public Safety Radio Systems", 2001)

Applicant respectfully submits that PSWN does not anticipate, either expressly or inherently, each and every element as set forth in independent claims 1, and 6. For example, independent claim 1, recites "driver application operates to communicate key command information to the KVL without the use of a timer peripheral and *enables the UART peripheral to utilize parity error information to validate communication with the KVL*" and independent claim 6 recites "the KVL driver operates without a timer peripheral *enabling the UART peripheral to utilize parity*

error information to validate communication with the KVL," which is not anticipated either expressly or inherently, in PSWN.

Applicant respectfully disagrees with the statement in item 10, page 6 of the Office Action dated January 06, 2009 that PSWN discloses "a timer peripheral enabling the UART peripheral to utilize parity error information to validate communication with the KVL (PSWN: See page 5, section 3.2 "Key Distribution", page 6, first paragraph and page 9, second and third paragraph) as well as the statement on page 2 of the Advisory Action which refers to page 6 and page 7, section 3.5 "Key Maintenance." Applicant asserts that nothing in the cited passages, nor anywhere in the reference, teaches a KVL operating *without the use of a timer peripheral.* Nothing in the cited passages, nor anywhere in the reference, teaches the use of *parity error information to validate communication with the KVL.*

PSWN is directed towards effective management of encryption keys, such that they are safeguarded throughout their life cycle and are protected from unauthorized disclosure and modification. Abstract. PSWN in section 3.2 discloses that "key distribution can be performed using three methods: manual method, automated method, and a combination of automated and manual methods … The encryption key is inserted ("filled") into each radio with the key variable loader (KVL) which must be physically connected to each subscriber unit ... The encryption key is inserted ("filled") into each radio with the key variable loader (KVL) which must be physically connected to each subscriber unit." PSWN at best discloses a KMF sending keys to a remote KVL and to manually rekey the radio units. However, nowhere in the reference PSWN discloses validation of communication link with the KVL. Further, PSWN does not mention about utilizing parity error check information for validating the link. In contrast, Applicant's claim

describes *a KVL driver application for enabling the UART peripheral to utilize parity error information to validate communication with the KVL.*

Therefore, PSWN fails to disclose "driver application operates to communicate key command information to the KVL without the use of a timer peripheral and *enables the UART peripheral to utilize parity error information to validate communication with the KVL*," as recited by independent claim 1 and "the KVL driver operates without a timer peripheral *enabling the UART peripheral to utilize parity error information to validate communication with the KVL*," as recited by independent claim 6.

In addition, Applicant respectfully disagrees with the statement in item 10, page 6-7 of the Final Office Action and page 2 of the Advisory Action describing "PSWN discloses … transmitting a second detection signal from the UART to a KVL application when the UART detects a receive data byte … transmitting a third detection signal from the UART to the KVL application indicating all data has been received … transmitting a fourth detection signal from the UART to a KVL link layer application for sending subsequent data until all data has been transmitted by the UART." (Final Office Action referring to PSWN: Page 5, section 3.2 "Key Distribution", page 6, first paragraph and page 9, second and third paragraph and Advisory Action citing pages 15-17; section 5.4 and page 19, section 6). The cited passages at best disclose "The central facility, called a key management facility (KMF) distributes keys by first encrypting the key and then transmitting it over the air to subscriber units in the system … The KMF can fill a KVL with encryption keys using a direct cable connection or a telephone circuit and modems to a remote KVL." Therefore, PSWN merely describes that a central KMF transmits encryption keys to a remote KVL. For arguments sake, if the Applicant concedes that PSWN discloses detection signal, PSWN fails to disclose specifically a first, a second, a third,

and a fourth detection signal. In contrast, Applicant's claim describes *transmission of a second, third, and fourth detection signals from the UART to a KVL*. In addition, PSWN also fails to disclose, when a particular detection signal is sent or what a particular detection signal indicates. Therefore, PSWN fails to disclose "transmitting *a second detection signal from the UART to a KVL* application when the UART detects a receive data byte; *transmitting a third detection signal from the UART to the KVL* application indicating all data has been received; and *transmitting a fourth detection signal from the UART to a KVL* link layer application for sending subsequent data until all data has been transmitted by the UART," as recited by the Applicant's independent claim 9.

In view of the foregoing, Applicant respectfully submits that PSWN does not disclose the claim limitations as set forth by the Applicant's independent claims 1, 6, and 9. Applicant therefore submits that claims 1, 6, and 9 are not anticipated by PSWN, and therefore the rejection of claims 1, 6, and 9 under 35 USC 102(b) should be withdrawn. Applicant requests that claims 1, 6, and 9 may now be passed to allowance.

Dependent claims 2-5 depend from, and include all the limitations of independent claim 1, dependent claims 7-8 depend from, and include all the limitations of independent claim 6, and dependent claims 10-13 depend from, and include all the limitations of independent claim 9. Therefore, Applicant respectfully requests reconsideration of dependent claims 2-5, 7-8, and 10-13 are in proper condition for allowance and requests that claims 2-5, 7-8, and 10-13 may now be passed to allowance.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Such action is earnestly solicited by the Applicant.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

April 8, 2009

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